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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Special Committee decision of 17 June 2013 concerning Puerto Rico

Report prepared by the Rapporteur of the Special Committee, Bashar Ja'afari (Syrian Arab Republic)

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I. Introduction

1. At its 6th meeting, on 17 June 2013, the Special Committee adopted draft resolution A/AC.109/2013/L.6 on the question of the Special Committee decision of 18 June 2012 concerning Puerto Rico. In paragraph 11 of the resolution, the Special Committee requested the Rapporteur to submit a report on the implementation of the resolution. The present report was prepared by the Rapporteur in compliance with that request. It considers Puerto Rico in the light of previous reports prepared by the Rapporteur, recent political, economic, military and regional developments concerning Puerto Rico, and action taken by United Nations bodies on the matter.

II. Background information

A. General

2. Puerto Rico is the most easterly and smallest island of the Greater Antilles, in the Caribbean Sea. It has a land area of 8,959 km^2, including the small nearby islands of Vieques, Culebra and Mona. More than three fourths of Puerto Rico is mountainous and the range that runs its length reaches an elevation of 1,338 m at its highest point.

3. Over the past six decades, the island evolved from an agricultural to an urban/industrial society, with slower population growth, higher life expectancy and massive migration to the United States of America. Most of the inhabitants speak Spanish, although a number also speak English.

4. According to the United States Census Bureau, the population of Puerto Rico in 2010 was estimated at 3.2 million.[1] In 2010, the total population had decreased by 2.2 per cent as compared to 2000, owing to migration and a low birth rate. The majority of people leaving the island today are young professionals, which contributes to a brain drain. According to the same source, between 2000 and 2007, about 359,585 Puerto Ricans settled in the continental United States, where almost a million had settled between the 1950s and the 1980s. An estimated 4.6 million Puerto Ricans currently live in the United States.

5. United States citizenship is granted to people born in Puerto Rico. They do not have the right to vote in United States presidential or congressional elections unless they reside on the United States mainland. In addition, the Supreme Court of Puerto Rico has recognized the existence of Puerto Rican citizenship in a court decision. The Puerto Rican Department of State issues a certification of such citizenship, which Puerto Ricans may claim through a protocol established by the Department.

6. The main political parties in the Territory differentiate themselves mostly by their position on the ultimate political status of Puerto Rico, none being satisfied with the status quo. The Partido Popular Democrático (PPD) favours an enhanced commonwealth status that is non-territorial and non-colonial. "Non-territorial" refers to ceasing to be subject to the territorial clause of the United States Constitution. United States citizenship would be retained but Puerto Rico would have greater governmental authority over its own affairs and more latitude to

[1] The Economist Intelligence Unit, *Puerto Rico Country Report*, January 2014.

establish regional and international relations. The Partido Nuevo Progresista (PNP) favours Puerto Rico's full integration as a state of the United States. Support for PPD remains slightly higher than for PNP. The third party, the Partido Independentista Puertorriqueño (PIP), favours independence for the island. There are pro-independence groups and organizations that do not participate in the elections because they consider that elections in a colonial context do not represent a true democratic exercise, while some cast strategic votes in favour of the PPD candidate for Governor in order to prevent the ascension to power of statehood supporters.

7. Two new organizations, the Partido del Pueblo Trabajador and the Movimiento Unión Soberanista, registered at the Puerto Rico State Elections Commission and participated in the elections held on 6 November 2012 with minimal results. Both are developing platforms that emphasize improving social and working conditions in Puerto Rico and protecting the environment, while the Movimiento Unión Soberanista also upholds the importance of national sovereignty and a constitutional assembly under international law to address the status issue.

B. Constitutional and political status

8. Puerto Rico currently holds commonwealth status with the United States. The 1952 Constitution of the Commonwealth of Puerto Rico is described in detail in paragraphs 91 to 119 of the Rapporteur's report of 1974 (A/AC.109/L.976). In brief, the Government consists of: (a) a Governor elected for four years at each general election; (b) a Legislative Assembly comprising two houses, the Senate (27 members) and the House of Representatives (51 members), elected by direct vote of the adult population at each general election; and (c) a Supreme Court and lower courts. The jurisdiction of the United States federal courts includes Puerto Rico. Puerto Rico is represented in the United States Government by a Resident Commissioner, who is a non-voting member of the United States House of Representatives, but a voting member of any committees on which he or she sits.

9. There are two judicial systems: Puerto Rico's courts and the United States District Court for the District of Puerto Rico. The latter functions in Puerto Rico with limited jurisdiction and can be reached only for cases under United States federal law or cases where there is diversity of state citizenship, that is, when a citizen of one state sues a citizen of another state. Cases before Puerto Rico's Supreme Court involving federal law can be appealed to the United States Supreme Court. Appeals to the First Circuit are taken from the United States District Court for the District of Puerto Rico, which is a first-instance court.

10. Even after the establishment of a constitutional Government for Puerto Rico in 1952, United States congressional authority over Puerto Rico remained unaltered. The United States Congress is vested with plenary power over Puerto Rico, including in the areas of defence, international relations, external trade, monetary and other matters, while the island is vested with local authority over designated areas. All laws concerning the Territory's relations with the United States remained in force through the Federal Relations Act (see A/AC.109/L.976, paras. 120-132), under which Puerto Rico was brought within the trade, tariff and monetary systems of the United States. The United States also undertook responsibility for the defence of Puerto Rico. In 1958, Puerto Rico's Legislative Assembly requested changes in

the Federal Relations Act, but they were not enacted. In 1959, three bills requesting changes in the political status of the Territory were submitted to the United States Congress, but no action was taken on any of them.

11. The results of a 1993 plebiscite, with virtually identical options to those offered in a previous plebiscite in 1967, were 48.4 per cent for the status quo (commonwealth), 46.2 per cent for statehood and 4 per cent for independence. Following this result and a request for clarification by the Legislative Assembly of Puerto Rico, Congress replied that the definition contained expectations that were not viable (see A/AC.109/1999/L.13, paras. 172-180). The Legislative Assembly then voted to hold another plebiscite in 1998.

12. The results of the plebiscite held on 13 December 1998 were as follows: 50.4 per cent for "none of the above", an option included by means of court action pursued by PPD; 46.7 per cent for statehood; 2.3 per cent for independence; 0.3 per cent for free association; and 0.06 per cent for commonwealth status. In the plebiscite, independence supporters divided themselves by also casting votes with the "none of the above" option, in an act of repudiation of what was considered an undemocratic exercise. Some political and civil society sectors increasingly question the validity of plebiscites where the Government of the United States is not bound by the results, and also whether the United States is actually willing to extend statehood. Many also call for a process of self-determination and decolonization in conformity with General Assembly resolution 1514 (XV) and resolutions of the Special Committee on the matter.

13. In July 2005, a vote was held whereby 84 per cent of voters opted in favour of a unicameral legislature for Puerto Rico. Although only 22 per cent of registered voters participated in that referendum, the results triggered a process whereby another referendum was to be held in 2007 to potentially amend Puerto Rico's Constitution and establish a one-house system in 2009. On 29 June 2007, however, the Supreme Court of Puerto Rico ruled that it could not force the Legislative Assembly to initiate a constitutional amendment process to establish a unicameral legislative system.

14. After the 1998 plebiscite, the President of the United States, William J. Clinton, established the President's Task Force on Puerto Rico's Status. On 5 December 2003, President George W. Bush named the 16 members of his Task Force, at the same time amending President Clinton's executive order so that the Task Force was required to report on the progress made every two years instead of annually.

15. In its December 2005 report, the Task Force stated that, while the current territorial status might continue so long as Congress desired, there were only two non-territorial options recognized by the United States Constitution, namely, statehood within the United States or full independence. The Task Force concluded that Puerto Rico belonged to but was not a part of the United States. It envisaged a two-stage process to approach the status issue. It first recommended that a federally sanctioned plebiscite be held in 2006 to ascertain whether the people of Puerto Rico wished it to remain a United States territory subject to the will of Congress or wished to pursue a constitutionally viable path towards permanent non-territorial status with the United States. The Task Force then recommended that, if the voters chose to change the current territorial status, an additional referendum should allow them to decide between statehood and independence. If, on the other hand, the voters elected to maintain the current territorial status, the Task Force recommended

that plebiscites be held periodically to keep Congress informed of the people's wishes.

16. It is important to note that, both before and since the issuance of the 2005 Task Force report, some have questioned whether Puerto Rico's status as a United States territory is consistent with statements that the United States made to the United Nations in 1953, following the adoption of Puerto Rico's Constitution, in requesting that Puerto Rico be removed from the list of Non-Self-Governing Territories. In its official request to the United Nations, the United States stated that Congress had given Puerto Rico the freedom to conduct its own internal government subject only to compliance with federal law and the United States Constitution.

17. Prior to the submission of the official request, the United States representative to the United Nations orally indicated that mutual consent would be needed to make changes in the relationship between Puerto Rico and the United States. That statement notwithstanding, the Department of Justice concluded in 1959 that Puerto Rico remained a Territory and was fully subject to congressional authority under the territorial clause of the United States Constitution. A broad spectrum of Puerto Rico's political and civil society sectors participating in hearings on Puerto Rico by the Special Committee maintains that the process of consultation of the Puerto Rican people regarding the status issue should take place in the context of international law, United Nations resolution 1514 (XV) and resolutions on Puerto Rico adopted by the Special Committee since 1973.

18. In early 2007, the United States House of Representatives reopened its consideration of the political status of Puerto Rico, as two pieces of draft legislation aimed at resolving the status issue were debated in the Subcommittee on Insular Affairs of the Committee on Natural Resources. In March 2007, hearings were held on the two approaches.

19. The Puerto Rico Democracy Act of 2007 (H.R.900) was introduced on 7 February. The bill stated, inter alia, that:

> The Puerto Rico State Elections Commission shall conduct a plebiscite in Puerto Rico during the 111th Congress, but not later than 31 December 2009. The ballot shall provide for voters to choose between only the following two options: (1) Puerto Rico should continue the existing form of territorial status as defined by the Constitution, basic laws, and policies of the United States; (2) Puerto Rico should pursue a path toward a constitutionally viable permanent non-territorial status.

20. A second bill, the Puerto Rico Self-Determination Act of 2007 (H.R.1230), was introduced on 28 February 2007, recognizing the right of the people of Puerto Rico to call a constitutional convention through which the people would exercise their natural right to self-determination and to establish a mechanism for congressional consideration of such decision. The constitutional assembly is a procedural mechanism for the decolonization of Puerto Rico, which has gained ground on the island in recent years. This mechanism is supported by the Puerto Rico Bar Association and is mentioned in resolutions of the Special Committee on Decolonization on Puerto Rico. That bill was not voted on by the end of the 2007 and 2008 sessions of Congress.

21. In December 2007, the President's Task Force issued its second report on the question of the status of Puerto Rico. Again concluding that there were only two

options available under the United States Constitution, the Task Force reiterated the three recommendations that it had put forward in its 2005 report.

22. The press in Puerto Rico widely reported that, on 2 January 2009, President Barack Obama, in a message sent to the new Governor of Puerto Rico, Luis Fortuño, reiterated that he would try to resolve the colonial case of Puerto Rico during his first term.

23. The President's Task Force on Puerto Rico's Status, as constituted under the Obama Administration, held its first meeting on 15 December 2009, expanding its focus to include matters affecting the economic development of Puerto Rico. President Obama signed an executive order on 30 October 2009 that preserved the Task Force's original mission and required it to provide advice and recommendations to the President and Congress on policies that promoted job creation, education, health care, clean energy and economic development on the islands. The Task Force comprises designees of each member of the President's Cabinet and the Co-Chairs of the President's Inter-Agency Group on Puerto Rico.

24. On 3 March 2010, the Task Force held hearings in San Juan. Testimony reflected a consensus that the Task Force must first address the status issue. The possibility of the constitutional assembly serving as a mechanism for deciding the future political status of Puerto Rico was also broadly discussed during the hearings. There was objection to changes in the agenda of the Task Force, arguing that it was contradictory to speak of economic development under the colonial model. The third report of the Task Force, issued in March 2011, includes an overview of the relationship between the United States and Puerto Rico and the status issue, an executive summary covering status, economic development and recommendations in relation to Vieques, and a description of the next steps of the Task Force, which include the implementation of the recommendations, receiving reports from its members on the engagement of federal agencies on the recommendations presented in the report and the holding of at least two summits in Puerto Rico in the following two years focusing on specific subject areas.

25. Most of the report's content on status consists of recommendations for an accelerated decision process regarding the status issue whereby Puerto Ricans could express their will regarding status options and action would be taken by the end of 2012 or soon after. The Task Force recommends that under the United States Constitution the permissible status options include statehood, independence, free association and nationhood as a free associated State (commonwealth). The report includes a description of each. The Task Force specifies that the United States Congress has the ultimate authority over the admission of states and that full independence involves a transition, including regarding citizenship status. The Task Force recommends that citizenship be preserved for Puerto Ricans who are United States citizens at the time of any transition to independence. The Task Force states that under the commonwealth option Puerto Rico would remain, as at present, subject to the territorial clause of the United States Constitution, although its local political autonomy should not be reduced or threatened. It also states that proposals for an enhanced commonwealth status (commonwealth with greater powers) remain problematic because the mutual consent consideration is one that a future Congress could choose to alter unilaterally.

26. Furthermore, the Task Force states that it has a marginal preference for a two-plebiscite process in which the people of Puerto Rico would first vote as to their

preference between becoming a part of the United States through statehood or the commonwealth, or becoming independent through independence or free association. A second plebiscite would then take place with a choice between available options as limited by the outcome of the first. If independence were chosen, a second vote would take place between full independence and free association. Regarding Vieques, the Task Force recommends measures for accelerating its clean-up, for boosting sustainable growth, for improving the quality of health care for Vieques residents and for protecting Mosquito Bay, which is bioluminescent.

27. Reactions to the latest report of the Task Force, as covered by the press in Puerto Rico, were mixed regarding the status recommendations, ranging from pro-statehood supporters to statements by proponents of the application of international law to the case of Puerto Rico and those who had stated that the marginal preference of the Task Force for the two-plebiscite process favoured the statehood option. The argument suggested in the last-mentioned case was that, if the choice were to continue to be a part of the United States, in the second plebiscite free associated State supporters would be divided owing to the added option of free association.

28. Another reaction was that the extensive recommendations in the report regarding Puerto Rico's economy and social matters were tied to a status consultation process seen as favouring statehood, since the recommendations regarding the economy tended towards the further incorporation of Puerto Rico into the United States by increasing the control of federal agencies in the areas of education, health, security, the justice system, communications and energy. A future vote by the people of Puerto Rico for commonwealth status then would be a choice not for such status as it exists today, but rather for further integration into the United States, however not the status of an incorporated territory. In his 2013 State of the Union address, delivered after being inaugurated for his second term, President Obama did not mention Puerto Rico, as some observers had expected he would.

29. A plebiscite — the fourth in the past 45 years — was held in Puerto Rico on 6 November 2012, on the same day as gubernatorial and municipal elections and the United States presidential elections. Almost 80 per cent of the island's electorate took part in the plebiscite.

30. Puerto Rican voters were asked: (a) whether they agreed to continue Puerto Rico's territorial status (commonwealth yes or no); and (b) to indicate the political status they preferred from three possibilities: statehood, independence or "sovereign commonwealth" — a version of commonwealth status not supported by PPD. On the first question, 970,910 (54 per cent) voted "no", in opposition to maintaining the current political status, and 828,077 (46 per cent) voted "yes", in favour of maintaining the current political status. Of those who pronounced themselves on the second question, 834,191 (61.16 per cent) chose statehood; 454,768 (33.34 per cent) chose free association and 74,895 (5.49 per cent) chose independence. Some argue, on the basis of that result, that statehood was the clear victor and that blank votes should not be taken into account. However, 26 per cent of the voters left the second question blank, and there appears to be overall agreement that those voters were not in favour of statehood. Therefore, some maintain that when the blank or protest votes are factored in, the absolute majority (55 per cent) is actually against statehood. On the basis of those results, it appears that Puerto Ricans rejected the current commonwealth government status but were unable to agree on an alternative.

31. Puerto Rico has alternatively viewed the plebiscite as an opportunity to improve the island's economic future, a chance to shake off the vestiges of its colonial past or a ploy by the Governor to win a second term. In Washington, D.C., the response to the 2013 plebiscite was mixed. The interpretations of the results by some members of the United States Congress mirrored the diverse interpretation on the island. In April 2013, President Obama indicated that the United States budget included $2.5 million for yet another plebiscite. In August, the United States Senate Energy and Natural Resources Committee held a hearing on the referendum. Chairman Ron Wyden (Democrat of Oregon) and Representative Lisa Murkowski (Republican of Alaska), the ranking Republican member on the panel, concurred that the vote made clear that the majority of Puerto Ricans did not favour the "current territorial status".

32. For its part, in December 2013, the White House issued a statement noting that "the results were clear, the people of Puerto Rico want the issue of status resolved, and a majority chose statehood in the second question. Now is the time for Congress to act and the administration will work with them on that effort so that the people of Puerto Rico can determine their own future".

33. The PPD Governor, Alejandro García Padilla, had announced publicly that if the United States Congress did not take action on Puerto Rican political status during 2013, PPD would promote legislation in favour of celebrations of a constitutional assembly, and a member of the Puerto Rican House of Representatives, Luis Vega Ramos of PPD, drafted such legislation (bill 210, presented on 2 January 2013). Several additional bills for action on a constitutional assembly have since been promoted. All constitutional assembly bills are expected to be consolidated and brought to public hearings. Meanwhile, in March 2013, Pedro Pierluisi of the centre-right PNP and Puerto Rico's resident commissioner in Washington, D.C., introduced before the United States House of Representatives a bill (the Puerto Rico Status Resolution Act — H.R. 2000) proposing a binding referendum on statehood and a legal pathway to achieve it. The Governor, Garcia Padilla, urged members of Congress not to co-sponsor the bill, which aimed at putting Puerto Rico on the path to statehood. As of December 2013, no decision had been taken on whether the Natural Resources Committee, which has jurisdiction on Puerto Rico issues, would schedule a meeting on H.R. 2000

34. President Obama's budget for fiscal year 2014 sought $2.5 million to hold the first federally sponsored vote on the status of Puerto Rico. The fiscal 2014 budget bill cleared both houses but was sidetracked by the federal budget battle and the partial shutdown of the Government in the autumn of 2013. The $2.5 million sought is included in the budget of the United States Department of Justice, which would define the status options to be presented to the Puerto Rican people besides other considerations, including that the options be compatible with United States constitutional law. On the basis of a paper presented by an expert, Wilma Reveron-Collazo, the limitations of the projected plebiscite from the perspective of international decolonization law were broadly discussed in the Caribbean regional seminar on the implementation of the Third International Decade for the Eradication of Colonialism, sponsored by the Special Committee in Quito in May 2013.

III. Recent developments

A. Political developments

35. As described in previous reports, apart from general political questions, three specific issues have been raised before the Special Committee in recent years as resulting from the political status of Puerto Rico and its relationship with the United States: (a) the United States military presence in Puerto Rico, particularly on the island of Vieques; (b) the imprisonment in the United States of pro-independence Puerto Ricans accused of seditious conspiracy and weapons possession; and (c) the application of the death penalty to Puerto Ricans convicted on federal charges. In recent years, the issue of increased political persecution has been raised.

36. Throughout the incumbency of the Government of Puerto Rico elected in 2008, the major newspapers on the island reported on its intolerance towards minority views and violations of civil rights. Since 2010 they have reported on police abuse and on the compulsory nature of membership in the Puerto Rican Bar Association, a civil rights organization founded more than 140 years ago. In September 2011, the United States Department of Justice issued a report[2] in which concern was expressed regarding the excessive use of force by the Puerto Rico police, for example against striking students. The report concluded that the police had violated the civil rights of broad sectors of the population. It also indicated police corruption. In September, the United States Attorney-General's office issued a report noting that Puerto Rico led all United States districts in the number of public corruption convictions (130) in 2011. In April 2013, it was revealed that the Obama Administration had allocated $95 million for the establishment of a Federal Bureau of Investigation facility in Puerto Rico.

37. Puerto Rico's new Governor, Alejandro García Padilla of PPD, was inaugurated on 2 January 2013 following a narrow victory in the 6 November 2012 elections. He secured 47.8 per cent of the vote against 47 per cent for Mr. Fortuño. After eight years in the minority, PPD now controls both the legislative and the executive branches for the first time since 2004. The next elections for governor, the Senate and the House of Representatives are scheduled for November 2016. Both Governor Padilla and Mr. Pierluisi are expected to run for the position of governor.

38. The issue of the Puerto Ricans accused of seditious conspiracy and weapons possession and imprisoned in the United States for 32 years has also been covered in previous reports. In essence, a number of Puerto Rican organizations and political and civil leaders have claimed over the years that these were essentially political prisoners and that they received disproportionately long sentences. In August 1999, President Clinton offered to release the prisoners conditionally, if they formally renounced violence. The offer was accepted by 11 of the original 15 prisoners, while one accepted a deal whereby he would be set free in five years. During 2002, two more of the original 15 prisoners were released although one, Antonio Camacho Negrón, was rearrested in August 2006 by the Federal Bureau of Investigation. Of the two remaining prisoners, Carlos Alberto Torres was paroled in July 2010, while Oscar López Rivera (now 71 years old) was denied parole on 18 February 2011 and remains in a maximum security federal prison in Terre Haute, Indiana. His appeal against that decision was rejected. Campaigns for the release of Mr. López Rivera

[2] See www.justice.gov/crt/about/spl/pr.php.

have continued. He is said to be among the longest-held political prisoners in the history of Puerto Rico and in the world. On 21 February 2013, *El Nuevo Día*, Puerto Rico's highest circulation daily newspaper, published an editorial calling on President Obama to pardon Mr. López Rivera.

39. The National Boricua Human Rights Network submitted a petition for executive clemency to President Obama, urging him to exercise his constitutional power of pardon to commute Mr. López Rivera's sentence from 70 years to time served and release him, noting that, by May 2013, he will have served 31 years in United States prisons. In June 2013, the daughter of Mr. López Rivera spoke before the Special Committee for the first time.

40. Avelino González Claudio, who was arrested in March 2008, was released on 6 December 2012. His brother, Norberto González Claudio, arrested on 10 May 2011, was sentenced to five years in a United States prison. The campaign for his release, intensified owing to his frail health, continues.

41. According to the Puerto Rican media and as reflected in recent resolutions of the Special Committee on Decolonization on Puerto Rico, there is a strong consensus among Puerto Ricans in favour of the release of those imprisoned for cases related to the struggle for independence, in particular of Mr. López Rivera. Such calls have come from the Governor of Puerto Rico and the Resident Commissioner in Washington, D.C., to figures in the arts and the Puerto Rican entertainment domain, to local communities. Support on the international level includes the Movement of Non-Aligned Countries. In late 2007 the Senate of Puerto Rico adopted a resolution in favour of the release of the prisoners.

42. Lolita Lebrón, who was incarcerated in United States prisons from 1954 to 1979 for pro-independence actions, died on 1 August 2011.

43. The issue of the application of the death penalty to Puerto Ricans convicted of crimes despite the abolition of the death penalty in Puerto Rico in 1929, which was upheld in the 1952 Constitution, was described in detail in the 2000 report (A/AC.109/2000/L.3, para. 23). A 4 February 2013 editorial in *The New York Times* referred to the abolition of the death penalty in Puerto Rico and called on the United States District Attorney to seek a life sentence in the case of *U.S. v. Lashaun Cassye*, mentioned in A/AC.109/2012/L.13. At the meeting of the Special Committee in June 2013, it was pointed out, among other things, that trials are discriminatory as they are conducted only in English, which is spoken by less than 10 per cent of the population. Currently, another certified death penalty case in Puerto Rico is that of Alexis Candelaria. According to a report by Edgardo Roman, coordinator of the Puerto Rican Coalition against the Death Penalty, the objective of the Federal District Attorney in Puerto Rico is to win the first death penalty conviction in Puerto Rico. Certified death penalty cases in Puerto Rico result in the island having one of the highest per capita death penalty rate of any State or territory within the United States. Twelve people remain on death row.

B. Military developments

44. The tenth anniversary of the cessation of military operations of the live-missile and bombing range operated by the United States was marked in 2013. As previously reported, for many years Puerto Rico held an important military-strategic position within the United States Naval Forces Southern Command. In addition to

its other military operations in Puerto Rico, from 1941 to May 2003, the United States Navy operated on Vieques, an island of just under 10,000 inhabitants located eight miles off the east coast of Puerto Rico. Vieques was used for naval gunfire support, air-to-ground ordnance training and amphibious assault exercises. Details of the military exercises conducted on Vieques during the period when the Navy occupied part of the island and of the related civil disobedience campaigns, arrests and lawsuits are to be found in previous reports of the Special Committee. Following the cessation of the military operations, the Department of the Navy retained responsibility for the environmental clean-up of the property, which is now a national wildlife refuge. According to recent reports in the press, the United States has so far removed more than 16.5 million pounds of munitions in an environmental clean-up expected to last through at least 2025. The Puerto Rico College of Physicians and Surgeons, however, considered it alarming that in the past 10 years, the clean-up had achieved the removal of only 5 per cent of the contaminants.[3]

45. The people of Vieques continue to struggle for related issues: (a) environmental clean-up and decontamination; (b) the return of the United States Navy lands — now under the jurisdiction of the Department of Interior Fish and Wildlife Service — to the Puerto Rican peoples; (c) sustainable development and the health crisis; and (d) the future of the United States Roosevelt Roads Naval Station on the main island of Puerto Rico. Information on previous plans for the socioeconomic development of Vieques can be found in document A/AC.109/2010/L.4.

46. There have been reports under speculation regarding land and property in Vieques, and calls have been made for input by locals to be taken into account by entities involved in the clean-up and development of the island. Health issues and transportation between the main island of Puerto Rico and Vieques and Culebra have become tremendous problems for the islands' residents and have led to protests. Health issues include lack of medications and X-ray services, and problems in hospital delivery rooms.[4]

47. Vieques has been sectioned off for the purpose of the clean-up activities, with a portion of the eastern part transferred to the Fish and Wildlife Service of the United States Department of the Interior, to be added to the existing Vieques National Wildlife Refuge. The United States Navy managed approximately 14,600 acres on the eastern portion of Vieques, which were used for amphibious training exercises and air-to-ground manoeuvres. Unexploded ordnance and remnants of exploded ordnance, which contain hazardous substances, have been identified there and in the surrounding waters. The United States Environmental Protection Agency has also indicated that the hazardous substances associated with ordnance that might be present in Vieques include TNT, napalm, depleted uranium, mercury, lead and other chemicals.

48. On the western portion of Vieques, the Navy operated an ammunition facility until 1948. The facility was reactivated in 1962 and closed in 2001. Later that year, the Navy transferred 3,100 acres to the Department of the Interior, 4,000 acres to the Municipality of Vieques and 800 acres to the Puerto Rico Conservation Trust.

49. In February 2005, the Vieques portion of the proposed Atlantic Fleet Weapons Training Area site was placed on the Environmental Protection Agency National Priorities List of the most hazardous waste sites in the country.

[3] Agencia EFE, San Juan, 26 October 2013.

[4] *El Vocero*, 19 August 2010.

50. In March 2008, a federal inter-agency agreement was announced between the Environmental Protection Agency, the Department of the Navy, the Department of the Interior and the Commonwealth of Puerto Rico for the clean-up of portions of Vieques and its surrounding waters. The agreement requires that the environmental impacts associated with past and present activities on Vieques and its surrounding waters be thoroughly investigated and that appropriate actions be taken in order to protect the community and the environment.

51. Culebra Island, located about nine miles north of Vieques, was also part of the United States Navy training facilities. Although military activities ceased on Culebra in 1975 in response to public safety concerns, clean-up of the island has been slow due in part to legal issues regarding the use of federal funds.

52. Some 7,000 Vieques residents collectively sought compensation for health and property damage in the billions of dollars in a lawsuit, *Sánchez et al v. United States*, in which they claimed that the United States Navy had been negligent by exposing the 10,000-strong population of Vieques to dangerous levels of toxins for more than 50 years, leading to a cancer rate in Vieques 30 times higher than the rest of Puerto Rico, and other long-term effects. The plaintiffs' lawsuit failed.

53. On 8 December 2011, in a 361-page report released for public comment,[5] the United States Agency for Toxic Substances and Disease Registry, while accepting local claims that there was a higher incidence of cancer and other health problems on Vieques relative to the rest of Puerto Rico, said that there was no proof that the problem was linked to United States military activity. The long-awaited report was widely criticized by Puerto Rican officials and Vieques residents long resentful of health problems attributed to the United States Navy. The Resident Commissioner of Puerto Rico and United States Congressman Steve Rothman also opposed the report (A/AC.109/2012/L.13).

54. In another report, the Agency, referring to the scientific data presented about health problems on Vieques, said that the limitations associated with those analyses, introduced considerable uncertainty and made interpretation difficult. It maintained that elevated levels of some chemicals found in people's bodies could be attributed to causes other than military activity. It suggested that United States officials could work with the Government of Puerto Rico to obtain additional samples and keep track of health conditions on Vieques.

55. The report warned that some areas of the former bombing range continue to present a risk, stating that recently collected data demonstrated the remaining potential for localized contamination, which, if people frequented those areas, could be of health concern. The United States Navy has said that its forces accidentally fired 263 rounds of ammunition tipped with depleted uranium on the Vieques range in 1999, violating federal law.

56. According to some observers, the new report contains conclusions recycled from the 2003 report and lacks credibility. Public comments were to be submitted to the Agency for Toxic Substances and Disease Registry by 8 March 2012, subsequent to which it would issue a final report that would include recommendations for future work to be carried out on Vieques. In March 2013, the Agency released another long-awaited and presumably final report, which concluded that it had found no proof that decades of military practice bombing on Vieques had sickened residents,

[5] Available from www.atsdr.cdc.gov/hac/pha/vieques/2011_ViequesReport.pdf.

who blame the bombings for high rates of cancer, asthma and other illnesses. In June, a series of pictures of contaminated areas was presented to the Special Committee by a petitioner.[6]

57. In October 2013, the United States National Lawyers Guild and other groups filed a petition with the Inter-American Commission on Human Rights against the United States Government on behalf of 10 Vieques residents who have cancer or have relatives who are sick. One of the aims of the petition was to have the Government release more information about the extent of activities of the United States military and their impact on the people. Furthermore, the Inter-American Commission was asked to establish whether the practices of the United States had violated any human rights, in which case the Commission would set up a list of binding recommendations. Leaders of anti-military organizations in Puerto Rico, including Wanda Colón Cortés of the Caribbean Project for Justice and Peace and Sonia Santiago of Mothers against War, have denounced projects to build modern military facilities (A/AC.109/2012/L.13) as an expansion of the United States military presence in Puerto Rico.

C. Economic developments

58. During February 2014, Puerto Rico faced a credit downgrade by the ratings agencies Standard & Poor's, Moody's and Fitch, which cited weakening liquidity, increased reliance on short-term debt and constrained market access within the context of a weakened and sluggish economy. Fear regarding speculation with Puerto Rico's debt and patrimony has been expressed, as the credit of the Government has been downgraded and bonds sold have fallen to junk-bond level. Recently, Morgan Stanley has reportedly been in touch with hedge funds and private equity firms and other major investors to put together $2 billion with a yield as high as 10 per cent. *The Economist* projects a shrinkage of the gross domestic product of Puerto Rico by 2.5 per cent in 2014[7] (only Libya and Cyprus will reportedly see deeper drops, to 3 per cent). It was expected that a law for the issue of $3.5 billion in new municipal bonds would be signed to provide resources to the cash-strapped Government.[8]

59. Since 2006, Puerto Rico has been in an economic recession, which is expected to deepen in 2014, with debts amounting to an estimated $68 billion. The fiscal outlook remains extremely fragile. It is estimated that growth will be held back by high unemployment, which, at 15 per cent, is one of the highest in the Latin American and Caribbean region. Crime rates — also linked to illegal activities — are soaring. Drastic spending cuts — such as the dismissal of 20,000 public sector workers — have provoked widespread social discontent. Forty-five per cent of the population lives below the poverty line. The United States presidential task force, created to address not only the status of Puerto Rico but also its economic troubles, sent a team of experts to the island in December 2013.

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[6] United States Department of Health and Human Services Agency for Toxic Substances and Disease Registry, "An evaluation of environmental, biological, and health data from the Island of Vieques, Puerto Rico", 19 March 2013, available from www.atsdr.cdc.gov/hac/pha/vieques/Vieques_Summary_Final_Report_English_2013.pdf.

[7] www.economist.com/news/leaders/21588374-stuck-real-debt-crisis-its-back-yard-america-can-learn-europes-aegean.

[8] *El Nuevo Dia*, 1 March 2014, p. 4.

60. Puerto Rico has an industrialized economy with particular characteristics derived from its island geography and its close links to the United States economy. According to recent estimates, in 2012 the economy expanded by a modest 0.7 per cent. The 2013/14 budget includes additional tax measures to raise revenue. In the context of the need for more fiscal adjustment, the Government may be able to do little to stimulate economic growth. Projects in this direction may focus on the island's most vital economic sectors, including pharmaceuticals, biotechnology and tourism.

61. A number of tax incentives extended to United States corporations operating in Puerto Rico have been eliminated, including section 936 of the United States Internal Revenue Code, which was especially generous. In 2010, foreign corporations operating in Puerto Rico earned more than $35 billion in profits, an increase of $2.5 billion over profits generated in 2008 and 2009.

62. Bankruptcy cases (including both business and personal bankruptcy) numbered 10,184 in 2009 and 11,810 in 2010, representing an 11.5 per cent increase over the course of one year.[9]

63. In November 2011, the Government of Puerto Rico joined interested sectors to lobby the United States Congress for a new amendment (H.R.3020) to the federal Internal Revenue Code that would allow certain corporations there to elect to be treated as domestic (i.e., United States) corporations. With such amendment, the Territory could continue to be an offshore tax haven for multinational corporations. Tax breaks have existed for over 60 years, yet have had little impact on high unemployment and serious social problems, which have escalated.

64. The policy of privatization of public enterprises or their components as an economic development measure has met with discontent. Despite broad protests against a proposal to privatize the administration of Puerto Rico's Luis Muñoz Marín International Airport, the Federal Aviation Administration approved the contract with Aerostar Airport Holdings.

65. Law No. 160 of 2013 increased the retirement age of teachers in the public education system and also increased the contribution from their salaries to their retirement fund. The law spurred a three-day work stoppage by teachers whose unions had bonded together, and they continue to threaten to strike indefinitely if the alternatives that they have presented to this plan are not heeded.

66. As an austerity measure to reduce Puerto Rico's then $3.2 billion budget deficit and address the issue of high public sector employment, more than 20,000 workers have been laid off since 2009.

67. The agricultural sector remains small and is declining. Agriculture was displaced in favour of an industrial and manufacturing economic model following the handover of Puerto Rico to the United States in 1898 at the end of the Spanish-American war. According to official agricultural statistics, Puerto Rico imports 85 per cent of the food that its population consumes, owing to lack of ability to compete with the economies of scale of larger agribusiness firms abroad. Agricultural production decreased by 20 per cent between 2003 and 2008.

68. Puerto Rico's service sector has grown in importance in recent years, with tourism a main component. It is estimated that, for every 100 hotel jobs, there are an

[9] Puerto Rico Planning Board, 2009 Economic Report, and the Government Development Bank.

additional 178 jobs in related activities. Published figures indicate that around 4.5 per cent of the workforce is employed in the sector. Following the 2008 global economic slowdown, tourism began to pick up slowly in 2012. Currently, calls are being made, including by Pedro Pierluisi, the re-elected Resident Commissioner in Washington, D.C., to exempt Puerto Rico from United States federal maritime laws, whose application is deemed to raise the cost of living on the island.

D. Regional developments

69. In the Declaration adopted at the Second Summit of the Community of Latin American and Caribbean States (CELAC), held in Havana on 28 and 29 January 2014, Heads of State and Government highlighted the Latin American and Caribbean character of Puerto Rico and, in noting the resolutions on Puerto Rico adopted by the Special Committee, reiterated that the issue was of interest to the Community. CELAC member countries committed themselves to continue working, in the framework of international law, particularly in the framework of General Assembly resolution 1514 (XV), to make the region of Latin America and the Caribbean a territory free of colonialism and colonies. They entrusted the CELAC Quartet, together with other member States that wished to join the mandate, to submit proposals for moving forward on the matter.

70. In the Special Declaration on Puerto Rico, adopted by the Heads of State and Government of the Bolivarian Alternative for the Peoples of Our Americas meeting in Caracas on 4 and 5 February 2012, leaders expressed their strong support for the inalienable right of the people of Puerto Rico to self-determination and full independence; recalled that Puerto Rico was a Latin American and Caribbean nation with its own unmistakable identity and history, whose rights to sovereignty had been violated by the colonial rule imposed for more than a century; stressed that the cause of the independence of Puerto Rico concerned the region of Latin America and the Caribbean and their forums for dialogue and political cooperation — particularly the Community of Latin American and Caribbean States; and demanded the release of political prisoners convicted for fighting for the independence and self-determination of Puerto Rico, including comrade Oscar López Rivera, who had been imprisoned under inhumane conditions for 32 years (see A/68/23, chap. I, para. 26).

IV. Previous action taken by the United Nations

A. General

71. Since 1953, the United States has maintained a consistent position regarding the status of Puerto Rico and the competence of United Nations organs to examine that status, based on resolution 748 (VIII), by which the General Assembly released the United States from its obligations under Chapter XI of the Charter of the United Nations. It has maintained that Puerto Rico has exercised its right to self-determination, has attained a full measure of self-government, has decided freely and democratically to enter into a free association with the United States and is therefore beyond the purview of United Nations consideration. The Puerto Rican forces in favour of decolonization and independence have contested this affirmation. In paragraph 9 of resolution 748 (VIII), the General Assembly expressed its assurance

that due regard would be paid in the eventuality that either of the parties to the mutually agreed association might desire any change in the terms of that association.

72. Information on action taken by United Nations bodies with regard to Puerto Rico prior to 1974 is contained in the 1973 report of the Rapporteur (A/AC.109/L.976). Information since then can be found as follows: A/AC.109/L.1191 and Add.1 (for 1974-1976); A/AC.109/L.1334 and Add.1-3 (for 1977 and 1978); A/AC.109/L.1436 (for 1979-1981); A/AC.109/L.1572 (for 1981-1985); A/AC.109/1999/L.13 (for 1984-1998); A/AC.109/2000/L.3 (for 1999); A/AC.109/2001/L.3 (for 2000); A/AC.109/2002/L.4 (for 2001); A/AC.109/2003/L.3 (for 2002); A/AC.109/2004/L.3 (for 2003); A/AC.109/2005/L.3 (for 2004); A/AC.109/2006/L.3 (for 2005); A/AC.109/2007/L.3 (for 2006); A/AC.109/2008/L.3 (for 2007); A/AC.109/2009/L.13 (for 2008); A/AC.109/2010/L.4 (for 2009); A/AC.109/2011/L.13 (for 2010); A/AC.109/2012/L.13 (for 2011); and A/AC./109/2013/L.13 (for 2012).

B. Action taken by the Special Committee

73. At its 1st meeting, on 21 February 2013, by adopting the suggestions relating to the organization of work put forward by the Chair (see A/AC.109/2013/L.2), the Special Committee decided to take up the item entitled "Special Committee decision of 18 June 2012 concerning Puerto Rico" and to consider it at plenary meetings.

74. At the 3rd and 5th meetings, on 10 and 17 June 2013, the Chair of the Special Committee drew attention to a report prepared by the Rapporteur of the Special Committee (A/AC.109/2013/L.13) and to a number of communications received from organizations requesting to be heard on Puerto Rico by the Committee. The Special Committee agreed to accede to those requests and heard a number of representatives of the organizations concerned at its 5th and 6th meetings, both held on 17 June (see A/AC.109/2013/SR.5 and 6).

75. At the 5th meeting, the representative of Cuba introduced draft resolution A/AC.109/2013/L.6.

76. At the same meeting, statements were made by the Islamic Republic of Iran (on behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries), the Bolivarian Republic of Venezuela, Ecuador, Nicaragua, the Plurinational State of Bolivia, the Syrian Arab Republic and Cuba (see A/AC.109/2013/SR.5). At the 6th meeting, the Special Committee adopted draft resolution A/AC.109/2013/L.6 without a vote. Following the adoption of the resolution, the representative of Cuba made a statement.

77. In the context of the approaching midpoint of the Third International Decade for the Eradication of Colonialism and the assessments and initiatives of the Special Committee on Decolonization regarding possible avenues in that regard, the Chair of the Bureau of the Special Committee, Diego Morejón, convoked a useful meeting with the representative of the Committee for Puerto Rico at the United Nations, Olga I. Sanabria Dávila.

C. Action taken by the General Assembly

78. During the sixty-eighth session of the General Assembly, no draft resolution on this issue was submitted to the Assembly for action.